

S. HRG. 107-959

**NOMINATION OF STEVEN ROBERT BLUST  
TO BE COMMISSIONER OF THE  
FEDERAL MARITIME COMMISSION**

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**HEARING**

BEFORE THE

**COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE**

**ONE HUNDRED SEVENTH CONGRESS**

SECOND SESSION

JUNE 5, 2002

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ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

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**NOMINATION OF STEVEN ROBERT BLUST  
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FEDERAL MARITIME COMMISSION**

**WEDNESDAY, JUNE 5, 2002**

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The Committee met, pursuant to notice, at 9:35 a.m. in room SR-253, Russell Senate Office Building, Hon. John B. Breaux, presiding.

**OPENING STATEMENT OF HON. JOHN B. BREAUx,  
U.S. SENATOR FROM LOUISIANA**

Senator BREAUx. The hearing will be in order. This morning's hearing is for the confirmation of the nomination of Mr. Steven Robert Blust as our new Federal Maritime Commissioner. We are delighted to have him with us, and I understand your wife is with you, Mr. Blust. We are happy to have her here, and pleased to have you in attendance, and thank you for allowing him to serve.

The Federal Maritime Commission, as everyone here knows, is a very important, independent commission. It is one that maybe the average person in Washington, the average person in the United States, does not understand, or is not very familiar with, but for those who are interested in trade, trading opportunities, fair trade, and level playing fields in the international arena, the Federal Maritime Commission obviously is very, very important.

I want to congratulate Mr. Blust, you personally on your nomination, and also express my sincere appreciation on behalf of this Committee and, indeed, all Members of the Senate for your willingness to step out of the private sector and into a job that I am certain will pay a lot less financially, in terms of financial reward, but in terms of the challenges and the ability to do good things for your country and your nation, I know that it is a very rewarding challenge.

The current Chairman, Hal Creel, is a good friend of this Committee and a good friend of mine, served on my staff as Counsel and Staff Director in his prior life. I understand that it is the President's desire that when you, Mr. Blust, join the Commission, you will begin service as the Chairman of the Commission. Hal has done a terrific job, and we appreciate his long service and the record that he has established in this very important position.

I will just point out that the Commission has extremely important duties. Sometimes these duties have to be carried out with the

honey and sugar approach, and sometimes you need to use the 2x4 approach. I think Hal has used both, from talking nicely to our trading partners and our port authorities around the world, to threatening to close the Port of Japan. We have done just about everything during your tenure, but that is the type of perspective that I think is needed in this very important position.

I am delighted, Mr. Blust, that you are a person who comes to this nomination process with a great deal of professional credibility and background. You are not going to have a lot of on-the-job training, as Hal did when he got there. He knew what the Commission was about, and he had previously worked with the Commission. However, coming from your industry perspective, currently as manager of the Tampa Bay International Terminals, and prior to that, working for Lykes Brothers Steamship Company, the Port of Jacksonville, Crowley Maritime, Delta Steamship, and graduate of the Merchant Marine Academy. You had the good fortune of going to Louisiana, as Hal did, and receiving an MBA degree at Tulane in New Orleans. You obviously have the professional background, training, and educational experience I think that is needed in this job.

No one can suggest that you are just a political appointee that they found a place for in the Administration. You are a professional, extremely well-qualified individual, and we look forward to having you in that position.

I understand that Senator Bill Nelson from Florida was going to try and be here, but since he is not able, he sends his regards. I will ask Commissioner Hal Creel to have a word or two for introduction purposes. Hal.

**STATEMENT OF HAL CREEL, CHAIRMAN,  
FEDERAL MARITIME COMMISSION**

Mr. CREEL. Thank you, Chairman Breaux. I am appearing before you today with the unusual task of recommending someone to replace me as Chairman. I cannot think of a better man than Steve Blust, to kick me out of a job of which I am so fond. Steve and I have had the chance to visit many times over the last several months, and I can tell you he is extremely qualified to be Chairman of the Federal Maritime Commission. His vast experience in both the terminal and the steamship sides of the business give him tremendous qualifications for that position. He understands the issues before the Commission, and he has the demeanor and the personal qualities, I believe, to be not only a good steward of the agency, but to be a leader as the agency enters a new era in the oversight of international ocean shipping.

I have a lot vested in the FMC, and I want to see it and Mr. Blust succeed. I hope that you will favorably report him out of the Committee so I can start working with him, and that now I can be the one complaining about the Chairman, rather than the other way around.

Thank you very much.

Senator BREAUX. Thank you very much, Hal, for attending and being with us once again.

Mr. Blust, you are on board. Any comments you would like to make to the Committee?

**STATEMENT OF STEVEN ROBERT BLUST, NOMINEE TO BE  
COMMISSIONER OF THE FEDERAL MARITIME COMMISSION**

Mr. BLUST. Yes, Mr. Chairman, I do have an opening statement, if I may proceed with that. It is, indeed, an honor to appear before you and the other Members of the Senate Commerce, Science, and Transportation Committee as President Bush's nominee to be a Commissioner of the Federal Maritime Commission.

During my life, I have been fortunate to have support from many individuals, including family, friends, colleagues, and alumni from the United States Merchant Marine Academy and Tulane University. I would like to publicly extend my thanks to them, and especially to my wife, Sharon, who is here today at the hearing, for all the support and help they have provided over the years.

International ocean transportation is an industry that has played an important role in the history of this great land. From the arrival of the earliest explorers seeking new ocean routes for commerce, to the Boston Tea Party protest of unfair taxation on imports, and to today's global economy, our society and quality of life have benefited from international trade. Today, over 18 million TEUs of cargo move in the international commerce of the U.S. with a value of about \$500 billion.

The Federal Maritime Commission plays a crucial role in this marketplace by assuring that fair maritime competition exists, and that the maximum benefits of international ocean transportation are received by this nation at a minimum cost. The intent of our governing laws is to let the market forces guide the growth and development of U.S. international trade. The Federal Maritime Commission is charged with ensuring that there are no undue controls, influences, or non-market barriers imposed by any nation, carrier, cargo-owner, or intermediary which can affect U.S. ocean-borne trade.

If I am confirmed by the Senate and designated as Chairman of the FMC, I will do all that I can to ensure that our U.S. exporters, importers, ocean transportation, intermediaries, and carriers are provided a fair and unencumbered operating environment in which to conduct their business in international trade.

After graduation from the U.S. Merchant Marine Academy, my employment experience has been solely in the maritime industry. Many of the functions that I have performed in my career have been subject to the maritime laws and regulations that are administered by the Commission. I have extensive experience in the areas of ocean carrier liner trade management, marine terminal management, operations, public port administration, tariff and service contract use and publication, and liner operations.

I believe that my diverse and proven background in the maritime industry will allow me to contribute to the efforts of the Federal Maritime Commission. The United States is a world leader in addressing international transportation issues. The Ocean Shipping Reform Act of 1998, OSRA, has proven to be a significant step forward for the U.S. international commercial sector. It has greatly benefited international trade by allowing shippers and ocean carriers to work more closely together through the use of confidential service contracts, to better meet the needs of both parties. Con-

gratulations to this Committee for your wisdom and efforts in introducing and shepherding through the passage of OSRA.

As a result of OSRA, the Federal Maritime Commission now focuses on marketplace trends for indications of disrupting and distorting practices adversely affecting U.S. international transportation. Upon our identifying adverse practices, the FMC can take appropriate steps initially through compliance efforts but, when required, through the use of penalties and sanctions to remedy the situation.

OSRA has also strengthened the enforcement provisions of the Foreign Shipping Practices Act of 1988, thus giving the Commission greater ability to rectify unfair shipping practices of foreign countries and entities.

In the area of transportation security, I will do all that I can to be certain that the Federal Maritime Commission works in concert with other agencies and Congress to ensure that the U.S. international commerce is conducted in a safe and secure manner.

As a regulator of the business in which the FMC stakeholders operate and function, my relationship will be one of fairness and impartiality, combined with an understanding and support. I will strive to ensure that the stakeholders are allowed to function free from discriminatory practices, market-distorting activities and, in the case of cruise passengers, protection from undue financial risk.

Thank you for your time and consideration. I will be happy to answer any questions you may have.

[The biographical information of Mr. Blust follows:]

#### A. BIOGRAPHICAL INFORMATION

1. Name: Steven Robert Blust.
2. Position to which nominated: Commissioner of the Federal Maritime Commission.
3. Date of Nomination: March 14, 2002.
4. Address: (Information not released to the public).
5. Date and place of birth: December 5, 1948, Sheboygan, WI.
6. Marital status., Married, Sharon Rose Buckel.
7. Name and ages of children: Kristian Robert Blust, age 22.
8. Education: Sheboygan Falls High School, 09/1963-06/1967, Sheboygan Falls, WI, H.S. Diploma, June 7, 1967; United States Merchant Marine Academy, 07/1967-06/1971, Kings Point, NY, Bachelor of Science, June 9, 1971; Tulane University, 01/1975-05/1979, New Orleans, LA, Master of Business Administration, May 11, 1979.
9. Employment record: Tampa Bay International Terminals, Inc., Tampa, FL, 10/1996 to Present, President/CEO. Chief Executive Officer of transportation service corporation. Increased business volume and profitability through diversification and expansion, expanded marketing activity, and revised operational focus. Lykes Brothers Steamship Co., Inc. Tampa, FL/New Orleans, LA, 02/1987-09/1996, Vice President Partnerships, 1996. Sought and secured alliance agreements with partners on strategic and tactical levels. Improved performance through asset sharing, service coordination, cost reduction and business growth. Vice President Mediterranean Service, 1991 to 1996, Profit and lost; responsibility for an international transportation service, 1993-1996. Directed all aspects of business, including cargo management, tariff filings, carrier agreements, operations, business development, sales, marketing, and logistics. Negotiated contracts with top 5 accounts. Developed annual operating and strategic business plans. Decision-maker at owner meetings; Director Marketing and Pricing, 1989 to 1990. Directed business development activities of transportation service. Developed market strategy program including customer acquisition, profit improvement and business growth. Directed conference representatives. Designed customer plans for both private and public sector clients; Director Liner Services, 1987 to 1989, Directed service operations, traffic and documentation departments. Jacksonville Port Authority, Jacksonville, FL, 05/1985-01/1987, General Manager, 1986 to 1987 Managed 300-acre multipurpose facility that included cargo transit terminals, manufacturing plants, auto processing facilities,



regional offices, and military depots. Provided services to customers including facility development, site management, security, cargo operations. Director of Marketing, 1985 to 1986. Directed port authority business development for domestic and international markets, including sales activities, managed pricing functions, and represented port in international and regional forums; Crowley Terminal Operators, New Orleans, LA, 09/1984-05/1985, Terminal Manager, 1984 to 1985. Managed terminal operations, cargo handling and labor management, with staff of 25 employees; Delta Steamship Lines, Inc., New Orleans, LA, 01/1974-09/1984. Assistant Director, 1982 to 1984 Directed container fleet management, cargo development, and pricing. Managed intermodal services, traffic management, tariff publication, and vessel operations 1974-1982. Texas A&M University, Galveston, TX, 06/1973-12/1973. Ship's Officer, RV Alaminos. Watch standing ship's officer on research vessel, responsible for ship's navigation and maintenance. Performed ship maneuvers during research projects. Central Gulf Lines, New Orleans, LA, 10/1972-06/1973. Operations Assistant, Coordinated LASH barge fleet movement, inventory control, fleet and cargo operations. Ann Arbor Railroad, Frankfort, MI, 07/1971-06/1972. First Class Pilot, Watch standing ship's officer responsible for cargo operations and ship's navigation on railcar ferries operated on Lake Michigan.

10. Government experience: None.

11. Business relationships: Tampa Chamber of Commerce International Committee Member 2001-Present; Hillsborough Community College, International Advisory Committee, Member 1999-Present; Enterprise Florida International Advisory Committee, Member 1999-Present.

12. Memberships: Propeller Club of the United States, Vice President, Port of Tampa 2001-Present; Boardmember, Port of Tampa 1997-2001, Tampa Bay Cargo Association, President, 2000-Present; Vice President, 1998-2000, U.S. Merchant Marine Academy Alumni Assn., member 1971-Present; President, New Orleans Chapter, 1988-1989; Tulane University Alumni Association, member 1979-Present; Navy League member, 2001.

13. Political affiliations and activities: (a) List all offices with a political party which you have held or any public office for which you have been a candidate. None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Contributed \$360/year to Lykes Bros. Steamship Co. PAC 1992-1994.

14. Honors and awards: United States Merchant Marine Academy Alumni Association, Meritorious Alumni Award 1991; Propeller Club of the United States, Port of Tampa Maritime Person of the year, 2002;

15. Published writings: None.

16. Speeches: Provide the committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated.

While I have not delivered any formal speeches, I participated as a panel member at the Journal of Commerce Breakbulk Conference on 10/1/2001 using informal notes.

17. Selection: (a) Do you know why you were chosen for this nomination by the President? I believe that my extensive professional experience in the maritime industry, formal maritime and business education, as well as my involvement in professional and fraternal organizations, were recognized by the President as providing a valuable base upon which I could effectively function as a Commissioner of the Federal Maritime Commission.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? My employment experience, after graduation from the United States Merchant Marine Academy, has been solely in the maritime industry. I have extensive experience in the areas of ocean carrier liner trade management, marine terminal management, public port administration, tariff and service contract use and publication, and liner operations.

Many of the functions that I have performed in my career have been subject to the maritime laws and regulations that are implemented by the Federal Maritime Commission, and my experience will be beneficial to me, if confirmed as a Commissioner.

#### B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? Yes.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

#### C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

(a) 401-K Defined contribution plan, Hartford Life, Tampa Bay International Terminals, Inc. (I will continue to participate. Neither I, nor my previous employer will continue to contribute).

(b) Deferred Annuity, Equitable Life. Delta Steamship Lines terminated its retirement plan in 1985 and a deferred annuity was purchased from Equitable Life in Secaucus, NJ, which matures at retirement age.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. None.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. (a) Tampa Bay International Terminals, Officer of the company; (b) Tampa Port Authority, Tampa Bay International Terminals, performed terminal operations under agreement with the Tampa Port Authority; (c) Lykes Brothers Steamship Co. Inc., employee.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. None.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (a) 401-K Defined contribution plan, Hartford Life, Tampa Bay International Terminals, Inc. I will continue to participate. Neither I, nor my previous employer will continue to contribute. (b) Deferred Annuity, Equitable Life. Delta Steamship Lines terminated its retirement plan in 1985 and a deferred annuity was purchased from Equitable Life in Secaucus, NJ, which matures at retirement age. As this is a defined retirement program, it presents no potential conflict. (c) As required by 18 U.S.C. 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to section 208(b)(1), or qualify for a regulatory exemption, pursuant to section 208(b)(2). I understand that the interests of the following persons are imputed to me: my spouse, minor children, or any general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment. Upon confirmation, I will resign my position as President and CEO of Tampa Bay International Terminals, Inc. Furthermore, pursuant to 5 C.F.R. 2635.502, for 1 year after I terminate my position with Tampa Bay International Terminals, I will not participate in any particular matter involving specific parties in which Tampa Bay International Terminals is a party or represents a party, unless I am authorized to participate.

6. Do you have any written opinions provided to the committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Designated Agency Ethics Official of the Federal Maritime Commission, on March 15, 2002, issued a letter to the U.S. Office of Government Ethics, stating his opinion that the nominee will be in compliance with the conflict of interest laws and regulations that will apply to the nominee as a member of the Commission.

Office of Government Ethics, on March 18, 2002, issued a letter to the committee stating that nominee is in compliance with applicable laws and regulations governing conflicts of interest.

The General Counsel of the Federal Maritime Commission sent an opinion letter to the committee on March 20, 2002 stating his belief that nominee will be in compliance with the conflict of interest laws and regulations that will apply to the nominee as a member of the Commission if the nominee is confirmed.

#### D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details. No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, provide details. Federal Maritime Commission Docket No. 99-22, *Tampa Bay International Terminals, Inc. (TBIT) v. Coler Ocean Independent Lines Company (Coler)*. Agency decision found Coler in violation of the Shipping Act of 1984 and TBIT was awarded reparations in the amount of \$30,647.07 plus interest.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

#### E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by congressional committees for information? Yes.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress, on such occasions as you maybe reasonably requested to do so? Yes.

#### F. GENERAL QUALIFICATIONS AND VIEWS

1. Please describe how your previous professional experience and education qualifies you for the position for which you have been nominated. My employment experience, after graduation from the United States Merchant Marine Academy, has been solely in the maritime industry. I have extensive experience in the areas of ocean carrier liner trade management, marine terminal management, public port administration, tariff and service contract use and publication, and liner operations.

The education that I received at the United States Merchant Marine Academy provided an excellent foundation upon which to build a career in the maritime industry. Both the technical and leadership skills that were taught at the Academy have proven to be invaluable to me during my career. Tulane University's Master of Business Administration program has greatly contributed to my ability to effectively work with customers and business partners.

Many of the functions that I have performed, in my career, have been subject to the maritime laws and regulations that are implemented by the Federal Maritime Commission, and my experience will be beneficial to me, if confirmed, as a Commissioner.

2. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills? (a) My current knowledge of the technical processes and procedures within the Federal Maritime Commission may be lacking at this time. Expertise can be quickly developed by reviewing the Commission's written procedures and seeking guidance and explanations from the Commission staff.

(b) I do not presently have a working relationship with Congress. I will meet with the appropriate Members of Congress and their staff to promptly develop the necessary working relationships.

3. Why do you wish to serve in the position for which you have been nominated? I wish to serve as a Commissioner of the Federal Maritime Commission, so that I can contribute to the development of an efficient and competitive ocean transpor-

tation system, that benefits U.S. shippers, carriers, and the Nation overall, with a minimum of government intervention and regulatory costs.

4. What goals have you established for your first 2 years in this position, if confirmed? (a) Fairly and impartially perform the functions of a Commissioner in the implementation and application of the relevant laws and regulations.

(b) Improve the business climate for U.S. shippers and carriers by identifying and eliminating unfair shipping practices.

(c) Pursue increased use of alternative dispute resolution to minimize regulatory costs borne by shippers, carriers and cruise ship passengers.

5. Who are the stakeholders in the work of this agency? (a) Shippers in international liner trades; (b) Vessel operating common carriers; (c) Freight forwarders; (d) Non-vessel operating common carriers; (e) Marine terminal operators; (f) Cruise ship passengers; (g) Cruise liners; (h) Related trade associations.

6. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question No. 5? As a regulator of the business in which the stakeholders operate and function, my relationship will be one of fairness and impartiality, combined with understanding and support, to ensure that the stakeholders are allowed to function free from discriminatory practices, market distorting activities, and undue financial risk borne by passengers.

7. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you? I believe that supervisor/employee relationships must be based upon open communications and mutual support. I follow the model of participative supervisory activities.

It is important to encourage and support continued education and training programs for employees to improve promotional capabilities within an organization.

I do not recall any substantive employee complaints being brought against me.

8. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please describe. I have no current or past working relationship with the Congress.

9. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your board/commission comply with the spirit of the laws passed by Congress. It is essential that regulations comply with the spirit of the laws passed by Congress. This can be accomplished by seeking comments and advice from both the Committee and the stakeholders to ensure that current or pending regulations are developed that are in concert with the law, are achievable and enforceable.

10. In the areas under the board/commission jurisdiction, what legislative actions(s) should Congress consider as priorities? State your personal views. It is believed that Congress, with the passage and implementation of the Ocean Shipping Reform Act of 1998, has satisfactorily met the requirements under the board/commission jurisdiction for the foreseeable future.

11. Please discuss your views on the appropriate relationship between a voting member of an independent board or commission and the wishes of a particular President. A voting member of an independent board, while greatly valuing the views of the President, must give all sides of an issue or case due consideration, must make an objective, impartial and fair decision based upon the merits of each issue or case.

Senator BREAUX. Thank you, Mr. Blust, for being with us and for, again, your willingness to serve in this position.

You mention in your statement the question of security and, of course, that is appropriately the buzz word in Washington, as it appropriately should be today. About security, we happen to believe that port security is something that should be the highest priority.

As you know, the Senate has passed the Port Security Act. We reported out of this Committee amendments to that Act to make it even stronger, yet the House of Representatives has failed to—I am sorry, they did pass it last night. Good news, they passed it last night, so at least the House has now finally acted, so we ought to have a port security bill passed by the Senate and the House and hopefully, the conference can come through with something quickly.

My point in raising this is, how do you envision the Federal Maritime Commission being helpful in this whole area?

As I have said in the past, we are not just going to be able to allow the Coast Guard to do everything. It seems that a lot of the ports and a lot of people in the shipping business feel that the Coast Guard is going to take care of port security. It actually has to be local government officials, local port authorities, the Coast Guard, state police, the National Guard, port and harbor police, everybody has to be involved.

Now, I am wondering whether you envision any potential role for the Federal Maritime Commission in providing information, perhaps, to the Department of Transportation in terms of shipping contracts and who is doing what, and cargo, and anything of that nature. Is there anything that can come out of the Federal Maritime Commission that could be helpful in the area of security?

Mr. BLUST. Mr. Chairman, I do believe that the Federal Maritime Commission can greatly help in the process by being primarily in a support role to the major efforts that are going forward. The FMC has a tremendous wealth of information available through the licensing processes that they have, the agreements that are filed, the service contracts that are filed, the tariffs that are published in the process, and the FMC staff understands the business flow. They understand the commercial aspects of how cargo moves, and the relations between carriers and shippers, and the intermediaries, and I believe that they would be able to bring that into the process, cross-referencing information on shippers.

If a particular entity is under review by another agency, it is possible that there may be information within the records or in the files of the FMC that could help in supporting that.

Senator BREAUX. I would certainly encourage you to do that as Chairman, and Hal being down there, it seems that a lot of the problems that we are seeing in intelligence information is due to a lack of sharing that information among the relevant agencies and the government, the CIA not wanting to tell the FBI, the FBI not wanting to tell the state police, and people wanting to keep their information internally, and sometimes if that information is shared, the results will be far more positive in helping to stop things that should not happen before they happen. I would really encourage the FMC to take a look at everything you all do and say, look, can anybody else benefit from this information?

You would hate to find out that you had information internally that, had it gone to the proper law enforcement authorities from a criminal standpoint, or from an intelligence standpoint, may have prevented shipments from going someplace and causing damage. If you have information that should set off flags and bells and whistles that something is wrong with this, we have never seen this carrier before in this trade, and is there something we need to check here, and do not hesitate to do that.

Let me ask a question about this recent Supreme Court decision, which I happened to read in the paper, and I see the staff has it listed here, about the cruise line that filed suit against the Port of South Carolina alleging discrimination in favoring one carrier over another carrier.

That case went all the way to the Supreme Court, and the United States Supreme Court, in a recent 5-4 decision, said the FMC does not have jurisdiction to litigate against states, that the states are protected against federal suits because of state sovereignty.

Do you have any concerns? Is that case going to cause us problems? As I read the Supreme Court decision, you are going to be prohibited from taking any action against any kind of state port authority. Do you have any comment on it, and I will ask Hal if he has a comment on it.

Mr. BLUST. Mr. Chairman, there is a fine point that was brought out in the ruling and the decision by the Supreme Court, and that is in the area where an individual, a private individual, a private citizen would go through the Federal Maritime Commission with a formal complaint seeking monetary reparations in the event of harm from a State agency.

The Supreme Court said that the Federal Maritime Commission is not able to pursue that, but they could pursue non-monetary investigations, and on their own initiation, or through an informal complaint or request pursue it. But what it does is, it narrows some of the options that are out there. It would also have an impact on the Commission's staff, where more of the homework would have to be done by them, and more of the research, making it a little more difficult than if the prior belief, or what the Commission was pursuing, had gone forward.

The other area is that the individual, the private individual that saw harm or felt that they were harmed now has to deal with several different approaches. If it is a terminal that is privately owned, they can pursue it through the Federal Maritime Commission. If it is owned by the State, as in the case of South Carolina, it has to go through another avenue, and they may not be able to collect any monetary reparations.

Senator BREAU. Hal, how do you see that case?

Mr. CREEL. Mr. Chairman, I agree with Mr. Blust, the ruling is limited to a private individual bringing a case to the FMC formally. An individual could still bring a case informally to us and the FMC could of its own volition go forward against the State entity. Ironically, I think the press has characterized this as a diminution in the responsibilities of the FMC, and I would argue just the opposite, that it increases the responsibilities of the FMC, because now the FMC has to step into the shoes of those individuals that may be aggrieved because of problems with the State.

Senator BREAU. You interpret the case to mean that the Federal Maritime Commission on its own initiative could file a complaint in Federal court against a State port authority for discrimination?

Mr. CREEL. Yes, sir.

Senator BREAU. But they could not do it on behalf of a citizen?

Mr. CREEL. That is right. An individual citizen could not file a formal complaint with the FMC, but they could informally give us information that would lead us to go out on our own.

Senator BREAU. So it is sort of a distinction without a difference, really.

Mr. CREEL. Except it really does put more of the onus on the Commission itself, rather than the aggrieved individual.

Senator BREAUX. But you interpret that case to mean that in the same set of facts in the South Carolina case that was presented at the Supreme Court, that had the carrier just informed the FMC of discrimination, and the FMC considered that evidence, that the FMC on their own then could file a complaint in federal court?

Mr. CREEL. That is right.

Senator BREAUX. So really you would still have the same ability to influence as you would before. That is an interesting idea, because you do not get that from reading the newspaper accounts of the case.

Mr. CREEL. That is right.

Senator BREAUX. Well, Mr. Blust, we are joined by our Ranking Member from the great maritime state of Arizona. The President has appointed a terrific gentleman here who is a Merchant Marine graduate, John, and with a great deal of experience in this business, to be Chairman. We have just asked him a few questions, and he has made an opening statement. If you have any comments you would like to make.

**STATEMENT OF SENATOR JOHN McCAIN,  
U.S. SENATOR FROM ARIZONA**

Senator McCAIN. Thank you, Mr. Chairman. After the next earthquake, we will be a coastal State. I congratulate you, sir, on your nomination to be Commissioner of the Federal Maritime Commission. With your years of experience serving in the maritime community, including your current position as President and CEO of Tampa Bay International Terminals, and your previous experiences, you are well-qualified, I believe.

In your role, you will have the unique responsibility of setting the course the Commission takes over the next several years, and it will be important that, given the limited resources, the priorities you establish are sound and carried out in an efficient manner.

Over the past several years, the liberalized exemption authority under the Ocean Shipping Reform Act has helped diminish this fear of collusion among carriers. A more defined commercial market system is creating new openings to increase trade among nations. The Ocean Shipping Reform Act has begun to show signs of success, and I would like to see this pattern of deregulation continue.

The duties of the Commission are important to the daily functions of trade and commerce in the United States. In the age of the global marketplace, you will be in a position that can help ensure fair maritime trading practices. I am confident you will be up to the challenges in store for you both as a Commissioner and as a Chairman.

[The prepared statement of Hon. John McCain follows:]

PREPARED STATEMENT OF SENATOR JOHN McCAIN

I congratulate you, Mr. Blust, on your nomination to be a Commissioner of the Federal Maritime Commission. The President has indicated that upon confirmation by the Senate, you will be designated its Chairman. With your years of experience serving in the maritime community, including your current position as President and CEO of Bay International Terminals and your previous tenure at Lykes Brothers Steamship Company, I believe you are well qualified for this position.

As a Commissioner, you, along with your fellow commissioners, will be charged with regulating the waterborne foreign commerce of the United States and ensuring

that U.S. international trade is open to all nations on fair and equitable terms. To ensure these mandates are achieved, you will have to, among other things, be vigilant in your enforcement of prohibitions against discriminatory acts and other prohibited practices. You will also be charged with ensuring that adequate levels of financial responsibility are maintained for indemnification of waterborne passengers.

In your role as Chairman, you will have the unique responsibility of setting the course the Commission takes over the next several years. It will be important that, given the limited resources of the agency, the priorities you establish are sound and carried out in a efficient and effective manner.

Over the past several years, the liberalized exemption authority under the Ocean Shipping Reform Act, (OSRA), has helped diminish the sphere of collusion among carriers. A more defined commercial market system is creating new openings to increase trade among nations. OSRA has begun to show signs of success, and I, for one, would like to see this pattern of deregulation continue.

The duties of the Commission are important to the daily functions of trade and commerce in the United States. In the age of a global marketplace, you will be in a position that can help ensure fair maritime trading practices. I am confident you will be up to the challenges in store for you both as a Commissioner and as Chairman.

I would like to take this opportunity to thank Mr. Blust for being here today and thank you in advance for your service. I know your nomination is a great honor and that your family is very proud.

Senator MCCAIN. Exercising the duties of old age and latitude on this Committee, I want to ask you what may be viewed by you as an off-the-wall question. Why is it that every yacht of any size that I see in any port in America with an American name on it has a foreign flag, any large vessel that you see in any port?

Mr. BLUST. In the commercial——

Senator MCCAIN. And non-commercial. I am talking about a yacht. Do you know why?

Mr. BLUST. No, sir. I am not a sailing buff.

Senator MCCAIN. Well, let me tell you why. It is because of the Jones Act, I am told, and that is that if you want to have a crew on your yacht, then that crew has to be all American employees. So all of these American yacht owners register their boats in Liberia, or the Cayman Islands, or some other place, so that they can have foreign-born and foreign citizens onboard their ships. You do not know anything about that?

Mr. BLUST. No, sir. It has been an area I have not been involved in, but I think the Federal Maritime Commission does not get involved in the Jones Act.

Senator MCCAIN. Does the Maritime Commission get involved in the issue of flagging non-commercial vessels?

Mr. BLUST. No, sir. The Federal Maritime Commission does support the commercial U.S. flag side, but not on the yacht side.

Senator MCCAIN. Let me switch subjects again. I was reading a story about Mr. Charles Taylor, the Liberian dictator who has been responsible for the deaths of thousands and thousands of people, I am told, in numbers, and according to several stories I have read, one of his major sources of revenue is from ships registered under a Liberian flag. Do you have any views on that?

Mr. BLUST. The flags are commonly called "flags of convenience." Liberia and other countries have been in existence for a number of years, and it is an avenue for shipowners to have vessels that take advantage of lower taxation. Now it has become international manning standards. In years past, it had been done country by country, but now there is an international standard for the international flag vessels that are out there, which has reduced some of the risks



and concerns of vessels that were operating that were not up to today's standards.

Senator MCCAIN. Should it not bother you that ships owned by citizens of the United States of America that operate carrying mainly U.S. goods and products around the world should be subsidizing and keeping in power a ruthless dictator who—I mean, the crimes that they have committed are unspeakable. Does that concern you?

Mr. BLUST. Of that nature, yes, sir, that would concern me.

Senator MCCAIN. Should we not look at why the laws are such that we drive these ships to register in a God-awful place like Liberia?

Mr. BLUST. That probably would be warranted.

Senator MCCAIN. It removes your supervision of them, does it not?

Mr. BLUST. Not in the U.S. trade, sir. In U.S. trade, the Federal Maritime Commission would oversee vessels in trade in the commercial liner side whether they are U.S. flag or non-U.S. flag vessels, so it really does not change the Commission's role in that sense. But it does not help support, the support of the U.S. merchant fleet and, that being a separate issue, is a major issue that is well worth pursuing and reevaluating.

Senator MCCAIN. I mean, it is a joke and a sham. I doubt if there is one Liberian citizen that has any interest of any kind in any of these ships.

Well, again, I understand that it is out of the norm, but those two issues have bothered me for some time, and I congratulate you on your nomination, and I look forward to working with you and Senator Breaux, who does represent a coastal State, who will be working with you more than I will, but I am sure you will enjoy that as well. I again congratulate you on your nomination, and we look forward to having you at work as soon as possible.

Thank you, Mr. Chairman.

Senator BREAUX. I thank the Senator for making his comments on the point of the Liberian flag vessel. During the port security hearing, it is interesting that one of the things we learned was that Panama, which is also a flag of convenience where many of these ships are flagged, we actually caught them, the U.S. government, providing about a thousand false documents for Panamanian sailors on Panamanian ships. I mean, you just go in there and pay your money, and you get your documentation that you are a licensed crew person to serve on those vessels. These vessels come into every port in the United States, many of them with crews that have false documentation. How easy it is for a potential terrorist to go down to Panama and pay the right person, get the documentation that you are a licensed seaman to sail on one of their vessels, and to come into the Port of New Orleans, or the Port of Long Beach, or anywhere else, and cause a great deal of damage.

It is a real, huge problem. It is not your area, but it is a huge problem.

Well, I thank the Senator for making that point, and Mr. Chairman-to-be, congratulations, and we will get to your confirmation just as soon as we can, and with that, the hearing will stand adjourned.

[Whereupon, at 10 a.m., the hearing was adjourned.]

